

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Watco Limited Partnership
through its General Partner, Frank E. Waters

96-04191

Name of Respondent

Olde Discount Corporation

CASE SUMMARY

In a case filed with the National Association of Securities Dealers Regulation, Inc. on September 19, 1996, claimant Watco Limited Partnership ("claimant") through its representative and General Partner, Frank E. Waters, alleged that respondent Olde Discount Corporation's ("OLDE")- registered representative Richard Gongaware ("Gongaware") sold him the wrong bonds. Claimant further alleged that he told Gongaware that he would like to purchase approximately \$125,000.00 of tax-free bearer coupon bonds. Claimant also alleged that he explained in detail that the bonds were for his mother who enjoyed taking the coupons to the bank to collect the interest. Claimant asserted that he told Gongaware he wanted investment grade with maturity in 10-20 years and that he would like about 6% yield.

Claimant further asserted that Gongaware kept referring to the bonds as registered and told him that he did not want registered bonds. Claimant also asserted that Gongaware assured him several times that the bonds would have coupons. Claimant contended that Gongaware stated several times that if the bonds were not what he wanted he would make it right. Claimant further contended that when the first bonds arrived they were Clermont County Bonds, which were in fact registered and had no coupons. Claimant also contended that Gongaware did not understand the difference between coupon bonds and registered bonds. Claimant alleged that he had also ordered the bearer coupon bonds from Mitchell Kershner of Gabriele, Hueglin & Cashman, who had no problem understanding his instructions and delivering the bonds which he ordered. Claimant further alleged he would not have purchased bonds at that price from Olde if he knew that they were not bearer coupon bonds. Claimant also alleged that OLDE's offer to sell his bonds for him at current market price did not address the issue, as he would have to pay a higher price plus transactions costs for the bonds he wants.

Respondent OLDE through its representative and in-house counsel Julie Reed, maintained that when Gongaware quoted him the price, yield and other particulars of the Clermont County bonds ("bonds"), he stated to claimant that they were registered bonds. Respondent further maintained that Gongaware recalls claimant was less interested in the bonds being coupon bonds than he was with obtaining bonds with higher yields and of which he could take physical possession. Respondent also maintained that claimant did not use the term "bearer bonds" at all. Respondent contended that claimant admits that Gongaware told him that the bonds were registered, but that he purchased them on three consecutive occasions despite that fact. Respondent further contended that Gongaware did understand the difference between bearer and registered bonds, but did not believe that he could obtain bearer bonds for claimant. Respondent also contended that Gongaware told claimant that he could not obtain bearer bonds for him, as such bonds were generally extinct and OLDE did not make such transaction for clients. Respondent maintained that Gongaware offered to obtain bonds which fit claimant's requirements of higher yield and physical possession, and claimant accepted the bonds as they were accurately described to him.

RELIEF REQUESTED

Claimant Watco Limited Partnership requested \$8981.62 in actual damages.

Respondent OLDE Discount Corporation requested that the claims of claimant be dismissed in their entirety for failure to state a claim, with all cost to be charged to claimant.

AWARD

Pursuant to Section 10302 of the NASD Code of Arbitration Procedure, a single Public Arbitrator Robert C. Devlin, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by claimant Watco Limited Partnership on September 16, 1996 and by respondent OLDE Discount Corporation on October 3, 1996 as required by Sections 10301 and 10302 of the Code of Arbitration Procedure.

And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of Claimant WATCO Limited Partnership against respondent OLDE Discount Corporation are dismissed in their entirety.
2. All other relief requests are denied.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers Regulation, Inc. by claimant WATCO Limited Partnership shall be retained by NASD Regulation, Inc.

AFFIRMATION

I, **Robert Devlin**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.


Robert C. Devlin, Esq.

Date of Decision: February 21, 1997